



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,847	10/29/2003	Christiane Noeske-Jungblut	KOENIG-2-D1	4014

23599 7590 12/05/2005

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

EXAMINER

ROOKE, AGNES BEATA

ART UNIT	PAPER NUMBER
----------	--------------

1653

DATE MAILED: 12/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/694,847

Applicant(s)

NOESKE-JUNGBLUT ET AL.

Examiner

Agnes B. Rooke

Art Unit

1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,7,9-11 and 18-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,7,9,10,18,19 and 21-32 is/are allowed.
- 6) ☒ Claim(s) 11 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☒ Interview Summary (PTO-418)
Paper No(s)/Mail Date 11/28/05
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This final action is in response to the Applicant's reply filed on 09/16/2005.

The amendments to the claims and specification filed on 09/16/2005 have been acknowledged.

Claims 2-6, 8, and 12-17 have been cancelled. New claims 18-20, and 21-32 have been added.

Claims 1, 7, 9-11, and 18-32 are pending and under examination.

The Applicant requested rejoinder of methods claims according to MPEP paragraph 821.04. Examiner rejoined the method claims.

This application is a DIV of 09/445,214, filed on 05/03/2000 now abandoned, which is a 371 of PCT/EP98/03356, filed on 06/05/1998, that claims foreign priority to GERMANY 19724791.1, filed on 06/06/1997. However, examiner directs Applicant's attention to the Bib Data Sheet that states that data provided by applicant is not consistent with the PTO records.

On November 28, 2005, examiner contacted Mr. Csaba Henter, to negotiate the Allowance. Examiner discussed claims 11 and 20. See Interview Summary attached.

Mr. Henter was not able to negotiate an allowance at this point since important financial decisions would have to be discussed with the Applicant before the agreement in respect to claims 11 and 20 could be reached.

REJECTIONS WITHDRAWN:

1. The Rejection of claims 1-10 and 14-17 under 35 U.S.C. 101 is withdrawn because the Applicant amended the claims to refer to "the synthetic" peptide.
2. The Rejection of claims 1-10 and 14-17 under 35 U.S.C. 112, second paragraph, is withdrawn because the non-elected subject matter has been cancelled.

Claim Rejections – 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 11 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 11 and 20, the Applicant refers to a method of treating several diseases by administering to a patient an effective amount of a peptide. However, the claim lacks a conclusion, where in conclusion the claim should state that a given disease is elevated, for example. Further, examiner suggests that each disease should be placed in a separate independent claim.

Objections

Through out the specification, there are several words that are misspelled, for example on page 15, line 1; page 17, line 2. Appropriate corrections should be made.

Conclusion

Claims 1, 7, 9-10, 18, 19, 21-32 are free of art, and therefore allowable. Claims 11 and 20 are not allowed and stand rejected.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

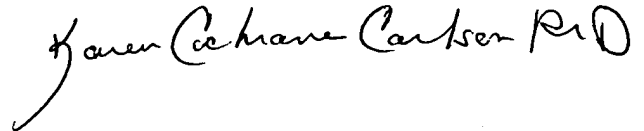
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Agnes Rooke whose telephone number is 571-272-2055. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached on 571-273-0925. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

Art Unit: 1653

applications may be obtained from either Private PAIR or Public PAIR. Status information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.

AR

A handwritten signature in black ink that reads "Karen Cochrane Carlson PhD". The signature is written in a cursive, flowing style.

**KAREN COCHRANE CARLSON, PH.D
PRIMARY EXAMINER**